

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARTHA HUGGINS and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, Ohio

*Docket No. 97-529; Submitted on the Record;
Issued December 24, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability commencing February 13, 1996 causally related to her March 16, 1995 employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a torn medial meniscus of the right knee in the performance of duty on March 16, 1995. The record indicates that appellant underwent arthroscopic surgery on the right knee on August 25, 1995. She returned to a light-duty position on December 21, 1995. On April 2, 1996 appellant filed a notice of recurrence of disability, indicating that the date of the recurrence was February 12, 1996.

By decision dated July 29, 1996, the Office denied appellant's claim for a recurrence of disability. In a decision dated September 3, 1996, the Office denied merit review of the claim. In a decision dated October 29, 1996, the Office reviewed the case on its merits and denied modification of the prior decisions.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability commencing on February 12, 1996.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.¹

¹ *Terry R. Hedman*, 38 ECAB 222 (1986).

In the present case, the record contains an emergency room report dated February 19, 1996 from Dr. Patrick Gallagher, a specialist in emergency medicine, who reported that appellant had chest pains for the prior week. In a report dated June 11, 1996, Dr. Lonnie Marsh, II, an internist, reported that appellant had suffered a stroke with resulting left hand paralysis and was disabled for work since February 19, 1996. He noted that appellant had a prior right knee surgery, and stated, "She continued to work and this probably with her knee and myofascitis of the lumbar spine also called 'rib pain,' continued to escalate leading to an aggravation of hypertension.... There is a cause and effect relationship between her disability as the occupation causes her stress with working with her right knee as well as ongoing pain in her flank area. The elevation and hypertension accelerated and aggravated her condition, precipitating the stroke."

To the extent that Dr. Marsh opined that appellant's hypertension and subsequent stroke were consequential injuries of her employment-related right knee condition, the Board finds that Dr. Marsh did not provide sufficient medical reasoning to support his opinion. He refers to appellant's knee and a lumbar myofascitis as escalating and leading to hypertension, without clearly explaining how the employment-related knee injury contributed to hypertension and providing the medical rationale for such a conclusion. Similarly, there is little detail provided as to the relationship of any hypertension to the stroke on February 19, 1996. The Board accordingly finds that appellant has not established that the hypertension or the stroke were causally related to the employment injury.

Appellant also submitted a September 3, 1996 report from Dr. Curtis W. Smith, an orthopedic surgeon. Dr. Smith stated in pertinent part, "After reviewing the patient's chart, it is with reasonable medical certainty that I can ascertain this patient's inability to work at present and since her February 19, 1996 visit to the emergency room is at least in part related to her industrial injury." Dr. Smith's report is of diminished probative value, however, because he also fails to provide adequate medical rationale to support his opinion. He stated that "in February 1996" appellant was unable to work because of pain in the right knee joint, but he does not provide additional detail. He indicated that he did not see appellant on February 19, 1996, and there are no contemporaneous reports.² Although Dr. Smith reported in the September 3, 1996 report that Dr. Gallagher, the emergency room physician, had indicated "in a recent narrative to me as an addendum to the note of February 19, 1996 that [appellant] did indeed present with a painful right knee joint," this evidence is not of record. Moreover, neither Dr. Smith nor Dr. Gallagher has provided a reasoned opinion, based on an accurate medical record, that appellant's knee condition on or after February 12, 1996 was disabling for the light-duty job and was causally related to the employment injury.

As noted above, appellant must establish a change in the nature and extent of the employment injury resulting in disability for the light-duty job. The medical evidence of record is of diminished probative value to the issue presented and is not sufficient to meet appellant's burden of proof.

² The record contains brief notes dated June 7 and July 16, 1996 regarding treatment for "reevaluation of the industrial injury" to the right knee, without further discussion of causal relationship or disability for work.

The decisions of the Office of Workers' Compensation Programs dated October 29, September 3 and July 29, 1996 are affirmed.

Dated, Washington, D.C.
December 24, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member